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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

RITO LOPEZ, on behalf of himself and the
putative Class members,

Plaintiff,

v.

EUROFINS SCIENTIFIC, INC.,
ENVIRONMENTAL SAMPLING SUPPLY,
INC., TESTAMERICA LABORATORIES,
INC. and DOES 1-100, inclusive,

Defendants.

Case No. 3:21-cv-08652-LB

**STIPULATION TO FILE SECOND
AMENDED COMPLAINT**

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9 *Attorneys for Defendants*

10 EUROFINS SCIENTIFIC, INC.,

11 ENVIRONMENTAL SAMPLING SUPPLY,

12 INC., and TESTAMERICA

13 LABORATORIES, INC.

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STIPULATION

Pursuant to Federal Rule of Civil Procedure Rule 15(a)(2), Plaintiff Rito Lopez (“Plaintiff”), and Defendants Eurofins Scientific, Inc., TestAmerica Laboratories, Inc. and Environmental Sampling Supply, Inc. (“Defendants”) (together, the “Parties”), hereby stipulate to leave for Plaintiff to file a Second Amended Complaint as set forth herein:

1. WHEREAS, on November 5, 2021, Plaintiff filed this Action against Defendant Eurofins Scientific, Inc. in the United States District Court for the Northern District of California, asserting claims under the California Labor Code and under the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq. Lopez, et al. v. Eurofins Scientific, Inc.*, United States District Court of the Northern District of California, Case No. 3:21-cv-08652 (“the Federal Action”).
2. WHEREAS, on February 14, 2022, Plaintiff filed a First Amended Class and Collective Action Complaint (“FAC”) to add Defendant Environmental Sampling Supply, Inc. and TestAmerica Laboratories, Inc. to the Federal Action.
3. WHEREAS, on December 30, 2021, Plaintiff filed a complaint pursuant to the Labor Code Private Attorneys General Act of 2004 (“PAGA”) in the California Superior Court of Alameda County, Case No. 21CV004840 (“PAGA Action”) against Defendant Eurofins Scientific, Inc.;
4. WHEREAS, on February 14, 2022, Plaintiff filed a First Amended PAGA Complaint (“FAPC”) to add Defendants Environmental Sampling Supply, Inc.
5. WHEREAS, the Parties participated in a full-day mediation before respected wage and hour mediator Gail Andler.
6. WHEREAS, following extensive arm’s length negotiations over the next few months, the Parties finalized the long-form settlement agreement, which was executed on May 3, 2023 (“Settlement”).
7. WHEREAS, pursuant to the Parties’ Settlement, Plaintiff seeks to file the proposed Second Amended Class and PAGA Action Complaint (“SAC”), a true and correct copy of which is attached hereto as **Exhibit 1**. The SAC (1) asserts additional claims for

penalties under the California Private Attorneys General Act § 2699 arising from Defendants' violations of the California Labor Code pursuant to the Settlement, (2) clarifies factual allegations, and (3) revises the Class and Aggrieved Employee definitions to reflect those settled in this Action.

8. WHEREAS the Parties submit that there is good cause to grant leave to Plaintiffs to file the SAC, as doing so will allow Plaintiffs to aver claims against Defendants that the Parties included in their mediation efforts and have resolved in the proposed Settlement, which will be submitted for the Court's preliminary approval.

9. WHEREAS, by stipulating to the filing of the SAC, Defendants represent only that amendment of the Complaint at this juncture in the litigation is consistent with applicable law regarding the amendment of pleadings, and explicitly does not concede the validity of any allegations, theories, or claims contained therein, or the validity or legal sufficiency of the proposed classes, their associated class periods, or the alleged statutes of limitations.

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED:

1. Plaintiffs should be granted leave to amend to file the proposed SAC.
2. Defendants shall have no obligation to file a pleading in response to the SAC, and
3. In the event the Court ultimately denies Plaintiffs' motion for final approval of the Settlement, the First Amended Complaint will be deemed the operative complaint.

Pursuant to Northern District of California Local Rule 5-1(h), Counsel for Plaintiff attests that Counsel for Defendant has agreed to the filing of this stipulation.

IT IS SO STIPULATED.

DATED: May 10, 2023

CONSTANGY, BROOKS, SMITH & PROPHETE, LLP

By: /s/ Barbara Antonucci

Barbara I. Antonucci

Sarah K. Hamilton

Attorneys for Defendant

EUROFINS SCIENTIFIC, INC.,

ENVIRONMENTAL SAMPLING SUPPLY, INC.,

and TESTAMERICA LABORATORIES, INC

DATED: May 10, 2023

**SCHNEIDER WALLACE
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By: /s/ Caroline Cohen
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Andrew Weaver
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